

IN THE CIRCUIT COURT
FOR THE FOURTH JUDICIAL CIRCUIT
WILLIAMSON COUNTY, MARION, ILLINOIS

EDWARD R. FINLEY and REBECCA M.
FINLEY,

Plaintiffs,

v.

JAY I. LIPOFF, MD,

Defendant,

and

MOHAMMED MANSURI, MD,

Respondent-In-Discovery.

Case No. 09-L-101

SUMMONS

To: Dr. Jay I. Lipoff
831p ~~8381~~ Express Drive
Marion, IL 62959

You are hereby summoned and required to file an answer in this case, or otherwise file your appearance, in the Office of the Clerk of this Court, Williamson County Courthouse, Marion, Illinois, within thirty (30) days after service of this SUMMONS, exclusive of the day of service. **IF YOU FAIL TO DO SO, A JUDGMENT OR DECREE BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE RELIEF ASKED IN THE COMPLAINT.**

This SUMMONS must be returned by the officer or other person to whom it was given for service, with endorsement thereon of service and fees, if any, immediately after service. If service cannot be made, SUMMONS shall be returned so endorsed.

This SUMMONS may not be served later than thirty (30) days after its date.

WITNESS: 7/10, 2009

Stuart Hall

(Clerk of the Circuit Court) gh

By: _____
(Deputy)

=====

William R. Tapella
HEFNER, EBERSPACHER, TAPELLA,
ARMSTRONG, GROVE, JONES & BRITTON, LLC
Attorneys at Law
P.O. Box 627
Mattoon, IL 61938-0627
T: 217-639-7800
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=====

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PROOF OF SERVICE

SHERIFF'S FEES

(Service and return.....\$ _____
(Miles.....\$ _____
(Total.....\$ _____

Sheriff of Williamson County

I certify that I served this SUMMONS on Defendant as follows:

(a) (Individual Defendant - personal):

(The officer or other person making service, shall (a) identify as to sex, race and approximate age of the Defendant with whom he left the attached COMPLAINT and (b) state the place where (whenever possible in terms of an exact street address) and the date and time of the day when they were left with the Defendant.)

(b) (Individual Defendant - abode):

By leaving a copy of the attached COMPLAINT at the usual place of abode of the Defendant with a person of Defendant's family, of the age of thirteen (13) years or upwards, informing that person of the contents of the SUMMONS with attached COMPLAINT.

(The officer or other person making service, shall (a) identify as to sex, race and approximate age of the Defendant with whom he left the attached COMPLAINT and (b) state the place where (whenever possible in terms of an exact street address) and the date and time of the day when the attached COMPLAINT was left with the Defendant.)

and also by sending a copy of the attached COMPLAINT in a sealed envelope with postage fully prepaid, addressed to the Respondent at Defendant's usual place of abode, as follows:

Name of Defendant	Mailing Address	Date of Mailing

(c) (Corporate Defendant):

By leaving a copy of the attached COMPLAINT with the registered agent, officer or agent of each defendant corporation, as follows:

Name of Corporation	Registered Agent, Officer or agent	Date of Service

(d) (Other service):

_____, Sheriff of Williamson County

By: _____
(Deputy)

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Stuart
CLERK OF THE CIRCUIT COURT

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COMPLAINT

Count I

Now comes the Plaintiff, EDWARD R. FINLEY, by WILLIAM R. TAPELLA of HEFNER, EBERSPACHER, TAPELLA, ARMSTRONG, GROVE, JONES & BRITTON, LLC. his attorneys, and for Count I of his Complaint against the Defendant, JAY I. LIPOFF, MD, states:

1. EDWARD R. FINLEY is 62 years old and a resident of Benton, Franklin County, Illinois.
2. At all times herein mentioned, the Defendant, JAY I. LIPOFF, MD, engaged in the practice of medicine licensed by the State of Illinois to practice medicine in all its branches.

3. At all times relevant to the issues raised in this Complaint, upon information and belief, JAY I. LIPOFF, MD, worked as an independent contractor at the Veterans Administration Hospital in Marion, Williamson County, Illinois, hereinafter "the VA Hospital."
4. In May 2007, the Plaintiff presented to the VA Hospital for the evaluation, care, and treatment of a perceived cardiac condition. Care providers at the VA Hospital referred the Plaintiff to JAY I. LIPOFF, MD, for the placement of a pacemaker device.
5. On July 5, 2007, JAY I. LIPOFF, MD, implanted a pacemaker device into the Plaintiff's chest and pacemaker leads into the Plaintiff's heart.
6. At all times herein mentioned, the Defendant, JAY I. LIPOFF, MD, held himself out and impliedly represented that he possessed and would apply the knowledge and use the skill and care ordinarily used by a reasonably careful physician.
7. Notwithstanding the implied representations of the Defendant, JAY I. LIPOFF, MD, as aforesaid, the Defendant committed one or more, or a combination, of the following negligent acts or omissions, to wit:
 - a. Failed to properly evaluate EDWARD R. FINLEY;
 - b. Implanted a pacemaker device into EDWARD R. FINLEY at a time and under such conditions as said device was medically unnecessary to the treatment of EDWARD R. FINLEY'S condition;
 - c. Failed to properly implant and secure the pacemaker device in an appropriate location in EDWARD R. FINLEY'S chest;

- d. Failed to properly place the pacemaker leads into EDWARD R. FINLEY'S heart; and
- e. Failed to properly follow EDWARD R. FINLEY postoperatively.
8. As a direct and proximate result of the negligent acts and/or omissions of the Defendant, JAY I. LIPOFF, MD, as aforesaid, EDWARD R. FINLEY suffered numerous incidents of shocking and pulling and the movement of his pacemaker to and fro across his chest and caused the pacemaker to fail and pacemaker leads to protrude through the Plaintiff's chest.
9. As a direct and proximate result of one or more, or a combination of the aforesaid acts and/or omissions of the Defendant, JAY I. LIPOFF, MD, and the shocking, pulling, movement of the pacemaker, the failure of the device and the protrusion of leads through the Plaintiff's chest caused by the Defendant's negligent acts and/or omissions, the Plaintiff, EDWARD R. FINLEY has incurred significant medical expenses and will in the future incur significant medical expenses, has suffered pain and discomfort and will in the future suffer pain and discomfort, has been disabled and will remain disabled and has suffered the loss of substantial income and will continue to suffer the loss of substantial income in the future.

WHEREFORE, the Plaintiff, EDWARD R. FINLEY, prays that he may have judgment against the Defendant, JAY I. LIPOFF, MD, in such sums as will fairly and justly compensate him for his injuries so sustained and in a sum in excess of Fifty-thousand dollars (\$50,000.00), together with its cost of suit.

COUNT II

Now comes the Plaintiff, REBECCA M. FINLEY, by WILLIAM R. TAPELLA of HEFNER, EBERSPACHER, TAPELLA, ARMSTRONG, GROVE, JONES & BRITTON, LLC, her attorneys, and for Count II of her Complaint against the Defendant, JAY I. LIPOFF, MD, states:

- 1.-8. The Plaintiff repeats and realleges Paragraphs 1 through 8 of Count I as and for Paragraph 1 through 8 of this Count II of her Complaint.
9. As a result of the shocks and pulls and the movement of EDWARD R. FINLEY'S pacemaker to and fro within his chest, and the pain and suffering and disability that he has suffered as a result of the negligent acts and/or omissions of the Defendant, JAY I. LIPOFF, MD, REBECCA M. FINLEY has suffered the loss of society and companionship with her husband.

WHEREFORE, the Plaintiff, REBECCA M. FINLEY, prays that she may judgment against the Defendant, JAY I. LIPOFF, MD, in such sums as will fairly and justly compensate her for her losses and in a sum in excess of Fifty thousand dollars (\$50,000.00), together with her cost of suit.

Count III

Pursuant to 735 ILCS 5/402, the Plaintiff names Dr. Mohammed Mansuri as a Respondent-in-Discovery.

JURY DEMAND

Plaintiff, DEBRA R. CAMDEN, hereby demands Trial by Jury upon Plaintiff's
Complaint wherein Plaintiff seeks damages from the Defendants

DATED THIS 30th DAY OF June 2009

EDWARD R. FINLEY and REBECCA M. FINLEY,
Plaintiffs,

By: 

William R. Tapella
Hefner, Eberspacher, Tapella, Armstrong,
Grove, Jones & Britton, LLC
Their Attorneys.

William R. Tapella
HEFNER, EBERSPACHER, TAPELLA
ARMSTRONG, GROVE, JONES & BRITTON, LLC
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FOR THE FOURTH JUDICIAL CIRCUIT
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EDWARD R. FINLEY and REBECCA M.
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v.

JAY I. LIPOFF, MD,

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and

MOHAMMED MANSURI, MD, and

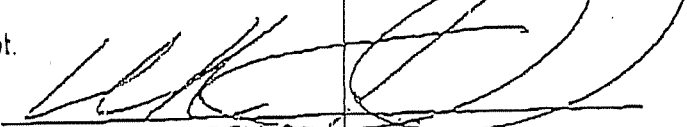
Respondent-In-Discovery.

Case No. 09-L-_____

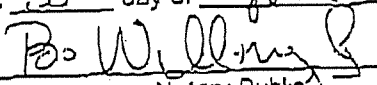
STATE OF ILLINOIS)
COUNTY OF COLES) SS.

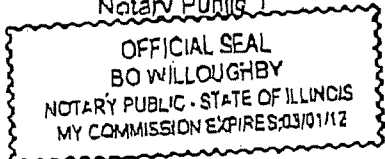
WILLIAM R. TAPELLA being first duly sworn deposes and says:

1. That Affiant and the attorneys of HEFNER, EBERSPACHER, TAPELLA, ARMSTRONG, GROVE, JONES & BRITTON, LLC, are the attorneys of record on behalf of the Plaintiffs in the above-captioned cause.
2. That pursuant to SUPREME COURT RULE 222, Affiant states that the total amount of money damages sought in this cause is greater than \$50,000.00.
3. Affiant further saith not.


WILLIAM R. TAPELLA

Subscribed and sworn to before me
this 30th day of June 2009.


Notary Public



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FOR THE FOURTH JUDICIAL CIRCUIT
WILLIAMSON COUNTY, MARION, ILLINOIS

EDWARD R. FINLEY and REBECCA M.
FINLEY,

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and

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Case No. 09-L-_____

AFFIDAVIT PURSUANT TO ILLINOIS CODE OF CIVIL PROCEDURE
SECTION 735 ILCS 5/2-622

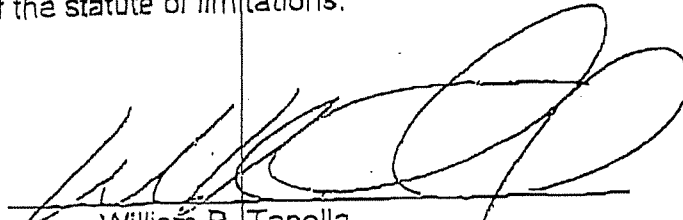
STATE OF ILLINOIS)
) SS.
COUNTY OF COLES)

WILLIAM R. TAPELLA being duly sworn and upon my oath do hereby state:

1. I am an attorney licensed to practice law in the State of Illinois.
2. I have been retained by EDWARD R. FINLEY and REBECCA M. FINLEY to represent them in a claim for damages sustained by EDWARD R. FINLEY that were caused by the negligent care and treatment of the Defendant, JAY I. LIPOFF, MD.
3. The Plaintiffs have not previously filed nor previously voluntarily dismissed an action based upon the same or substantially the same acts, omissions or occurrences that are set forth in the Plaintiffs' Complaint.

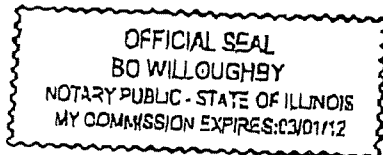
4. This Affiant has been unable to obtain a consultation with a health care professional as required under paragraph (a)(1) of 735 ILCS 5/2-622 because a statute of limitations would impair the claim raised by the Plaintiffs and the consultation could not be obtained prior to the expiration of the statute of limitations.

5. Further Affiant saith not.


William R. Tapella

Subscribed and sworn to before me
this 30th day of June, 2009.


Bo Willoughby
Notary Public



William R. Tapella
HEFNER, EBERSPACHER, TAPELLA
ARMSTRONG, GROVE, JONES & BRITTON, LLC
Attorneys at Law
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bw,5,30.09 #5-3404,0000

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

EDWARD R. and REBECCA M. FINLEY,)

Plaintiffs,)

vs.)

Civil No. _____

JAY I. LIPOFF, M.D.,)

Defendant,)

and)

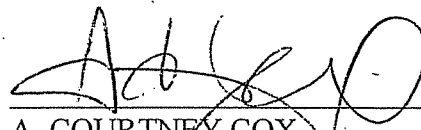
MOHAMMED MANSURI, M.D.,)

Respondent-In-Discovery.)

CERTIFICATION OF SCOPE OF EMPLOYMENT

I, A. Courtney Cox, United States Attorney for the Southern District of Illinois, pursuant to the provisions of 28 U.S.C. § 2679(d)(2) and by virtue of the authority vested in me under 28 C.F.R. § 15.3(a), certify that I have read the complaint in this action. On the basis of the information now available with respect to the incidents referred to therein, I find that defendant Jay I. Lipoff, M.D., was acting within the scope of his employment as an employee of the United States of America, Department of Veterans Affairs at the time of the incident of which plaintiff complains.

DATED: 7-29-09


A. COURTNEY COX
United States Attorney